

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Kentucky-Virginia Stone Co., Inc.)	
	(See Attached List))	Claiborne County
	Residential Property)	
	Tax Year 2007)	

ORDER FINDING JURISDICTION

Statement of the Case

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a jurisdictional hearing in this matter on March 25, 2008 in Tazewell, Tennessee. The taxpayer was represented by John T. Paynter, President of Kentucky-Virginia Stone Co., Inc. Mr. Paynter was assisted by his wife, Dawn Paynter. The assessor of property was represented by staff members Judy Myers, David Painter and Josh Goins.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of twenty-eight (28) vacant lots located in the Woodland Park Subdivision in Harrogate, Tennessee.

The sole issue before the administrative judge concerns jurisdiction. This issue arises from the fact that the disputed appraisals were not appealed to the Claiborne County Board of Equalization.¹ Instead, a direct appeal was filed with the State Board of Equalization which was received on February 11, 2008.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

¹ The Claiborne County Board of Equalization convened on June 1, 2007. See Tenn. Code Ann. § 67-1-404. The local board concluded its 2007 session on July 2, 2007 according to the records of the State Board of Equalization.

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992). See also *John Orovets* (Assessment Appeals Commission, Cheatham County, Tax Year 1991). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond its control prevented it from appealing to the Claiborne County Board of Equalization.

In most appeals involving the issue of reasonable cause taxpayers proffer a single reason for not appealing to the county board of equalization or filing an untimely appeal to the State Board of Equalization. This case differs from the typical reasonable cause appeal insofar as the taxpayer dealt with a series of events which resulted in no appeal to the Claiborne County Board of Equalization and what would normally constitute an untimely appeal to the State Board of Equalization. For ease of reference, the administrative judge will summarize the pertinent facts in chronological order.

On April 23, 2007, the assessor of property issued assessment change notices for each parcel. In accordance with Tenn. Code Ann. § 67-5-508(a)(3), the assessor sent the notices to the taxpayer's last known address:

11111 Crown Point Drive
Knoxville, TN 37922

Unbeknownst to the assessor, the zip code had been changed to 37934.²

Mr. Paynter testified that he had no recollection of ever receiving the notices and this occurred once before. Mrs. Paynter testified concerning the taxpayer's ongoing problems with mail delivery.

Unfortunately for the taxpayer, the possible non-receipt of the assessment change notices was only the first of several events culminating in a direct appeal to the State Board of Equalization. Mr. Paynter testified that his office flooded in May of 2007. Shortly thereafter, both of Mr. Paynter's elderly parents (ages 85 and 88) suffered from significant health problems. In particular, Mr. Paynter's mother was diagnosed with Alzheimer's disease. Mr. Paynter ultimately moved his mother from Middlesboro, Kentucky to his home in Knoxville because her combative nature made it exceedingly difficult to place her in an assisted living facility or the like.

According to Mr. Paynter, he first became aware of the disputed appraisals when he received the tax bills issued on or about October 1, 2007. The records of the State Board of

² The assessor of property was never notified of the new zip code. Accordingly, the administrative judge finds that the notices were properly sent to the taxpayer's last known address.

Equalization indicate that Mr. Paynter contacted the Board by telephone on October 16, 2007 to request appeal forms. The Board's records also indicate that the forms were mailed to Mr. Paynter the following day.


The administrative judge finds that even if it is assumed *arguendo* that the taxpayer did not receive proper notice, the taxpayer's appeal forms were not timely filed. See Tenn. Code Ann. § 67-5-1412(e) which provides that "the taxpayer may appeal directly to the State Board at any time within forty-five (45) days after the tax billing date. . . ."

In response to the administrative judge's query, Mr. Paynter testified that the delay in filing the appeal forms resulted from an entirely different factor. According to Mr. Paynter, after receiving the appeal forms from the State Board of Equalization he became aware that the Tennessee Department of Environment and Conservation had proposed a new policy concerning the issuance of permits for subsurface sewage disposal systems under the "Grandfather Clause" codified at Tenn. Code Ann. § 68-221-403(d). Mr. Paynter stated that he became aware of the new policy when he attempted to sell a lot in the subject subdivision. Mr. Paynter testified that he delayed sending the appeal forms because he was seeking assurances from the regulatory authorities that subject lots were still eligible for the necessary permits under the grandfather clause. Mr. Paynter indicated that the response of the regulatory authorities would determine the number of lots to be appealed.

Based upon the foregoing, the administrative judge finds that the taxpayer established reasonable cause for both not appealing to the Claiborne County Board of Equalization and the delay in filing an appeal with the State Board of Equalization. Accordingly, the administrative judge finds that the State Board of Equalization has jurisdiction and this matter should be set for a hearing on the merits at an as yet undetermined later date.

It is so ORDERED.

ENTERED this 4th day of April, 2008.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. John T. Paynter
Kay Sandifer, Assessor of Property

ATTACHMENT

Kentucky-Virginia Stone Co., Inc.

Lot #6 Ramsey Street	6-2N-D-2N-6.00-000	Tax Year 2007
Lot #7 Ramsey Street	6-2N-D-2N-7.00-000	Tax Year 2007
Lot #9 Fernleaf Drive	6-2N-D-2N-9.00-000	Tax Year 2007
Lot #10 Fernleaf Drive	6-2N-D-2N-10.00-000	Tax Year 2007
Lot #11 Fernleaf Drive	6-2N-D-2N-11.00-000	Tax Year 2007
Lot #12 Fernleaf Drive	6-2N-D-2N-12.00-000	Tax Year 2007
Lot #13 Fernleaf Drive	6-2N-D-2N-13.00-000	Tax Year 2007
Lot #14 Fernleaf Drive	6-2N-D-2N-14.00-000	Tax Year 2007
Lot #15 Fernleaf Drive	6-2N-D-2N-15.00-000	Tax Year 2007
Lot #16 Fernleaf Drive	6-2N-D-2N-16.00-000	Tax Year 2007
Lot #18 Foxglove Street	6-2N-D-2N-18.00-000	Tax Year 2007
Lot #19 Foxglove Street	6-2N-D-2N-19.00-000	Tax Year 2007
Lot #28 Cowslip Drive	6-2N-D-2N-28.00-000	Tax Year 2007
Lot #29 Cowslip Drive	6-2N-D-2N-29.00-000	Tax Year 2007
Lot #34 Cowslip Drive	6-2N-D-2N-34.00-000	Tax Year 2007
Lot #35 Cowslip Drive	6-2N-D-2N-35.00-000	Tax Year 2007
Lot #37 Cowslip Drive	6-2N-D-2N-37.00-000	Tax Year 2007
Lot #39 Fernleaf Drive	6-2N-D-2N-39.00-000	Tax Year 2007
Lot #40 Fernleaf Drive	6-2N-D-2N-40.00-000	Tax Year 2007
Lot #41 Fernleaf Drive	6-2N-D-2N-41.00-000	Tax Year 2007
Lot #42 Fernleaf Drive	6-2N-D-2N-42.00-000	Tax Year 2007
Lot #43 Fernleaf Drive	6-2N-D-2N-43.00-000	Tax Year 2007
Lot #44 Fernleaf Drive	6-2N-D-2N-44.00-000	Tax Year 2007
Lot #45 Fernleaf Drive	6-2N-D-2N-45.00-000	Tax Year 2007
Lot #47 Cowslip Drive	6-2N-D-2N-47.00-000	Tax Year 2007
Lot #49 Cowslip Drive	6-2N-D-2N-49.00-000	Tax Year 2007
Lot #53	6-2N-D-2N-53.00-000	Tax Year 2007
Lot #55 Cowslip Drive	6-2N-D-2N-55.00-000	Tax Year 2007